

CORRECTED

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 22-1129V**

MICHAEL OTERO,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: April 19, 2024

*Jimmy A. Zgheib, Zgheib Sayad, P.C., White Plains, NY, for Petitioner.*

*Bridget Corridon, U.S. Department of Justice, Washington, DC, for Respondent.*

**DECISION ON ATTORNEY'S FEES AND COSTS<sup>1</sup>**

On August 30, 2022, Michael Otero filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the "Vaccine Act"). Petitioner alleged that he suffered a shoulder injury related to vaccine administration as a result of receiving an influenza vaccine on November 15, 2021. Petition, ECF No. 1. On February 27, 2024, I issued a decision awarding compensation to Petitioner based on the parties' stipulation. ECF No. 33.

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<sup>1</sup> Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Petitioner has now filed a motion for attorney's fees and costs, requesting an award of \$38,906.38 (representing \$35,801.80 in fees plus \$3,104.58 in costs). Application for Fees and Costs ("Motion") filed Feb. 28, 2024, ECF No. 37. Furthermore, Petitioner filed a signed statement representing that he incurred no personal out-of-pocket expenses. ECF No. 37-3.

Respondent reacted to the motion on Mar. 5, 2024, reporting that he is satisfied that the statutory requirements for an award of attorney's fees and costs are met in this case, but deferring resolution of the amount to be awarded to my discretion. Respondent's Response to Motion at 2-3, ECF No. 38. Petitioner did not file a reply thereafter.

The hourly rates requested for time billed through the end of 2023 are reasonable and consistent with our prior determinations and will therefore be adopted herein.

For 2024 work, Petitioner seeks \$400 per hour for attorneys Jimmy Zgheib and AnnMarie Sayad. Motion at 2. I find the requested rate reasonable. However, the requested paralegal rate for 2024 requires adjustment.

Attorney Zgheib is requesting a paralegal rate of \$200.00 per hour for tasks performed in 2024 but considered paralegal in nature. This rate exceeds the OSM's Forum Rate Fee Schedule<sup>3</sup> for paralegal work in 2024. I hereby reduce Mr. Zgheib's rate for paralegal tasks to \$197, to be consistent with the approved schedule's range for paralegal work performed in 2024. Nevertheless, I hereby award the attorney's fees requested for all time billed herein. The amount requested for litigation costs is also reasonable and shall be awarded in full.

## CONCLUSION

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). Accordingly, I hereby GRANT in part Petitioner's Motion for attorney's fees and costs. I award a total of **\$38,906.38 (representing \$35,801.80 in fees plus \$3,104.58 in costs) as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel, Jimmy A. Zgheib.** In the

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<sup>3</sup> The OSM Attorney Forum Hourly Rate Fee Schedule reflects a range of (\$170 - \$197) for paralegal work performed in 2024. The schedule can be accessed via the Court's website at: <http://www.cofc.uscourts.gov/node/2914>

absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this Decision.<sup>4</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>4</sup> Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.